

UNITED STATES OF AMERICA

VS.

NO. 1: 09-CR-32 (WLS)

MARCUS D. HAYES,

VIOLATIONS: Robbery of a Postal Facility

Defendant

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## ORDER OF DETENTION PENDING TRIAL

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In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a DETENTION HEARING was this day held in the above-captioned case before the undersigned. Defendant MARCUS D. HAYES was represented by Ms. Catherine Michelle Leek of the Federal Defenders Office; the United States was represented by Assistant U. S. Attorney Leah E. McEwen. Based upon the evidence presented/proffered to the court by counsel for the government and counsel for the defendant, as well as the contents of the Pretrial Service Report from the U. S. Probation Office dated December 7, 2009, I conclude that the following facts require the detention of the defendant pending the trial of this case.

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### PART I - FINDINGS OF FACT

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- (1) There is PROBABLE CAUSE to believe that the defendant has committed an offense
- for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act.
- which is a crime of violence.
- (2) The defendant has not rebutted the presumption established by finding (1) that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

### ALTERNATIVE FINDINGS

- (1) There is a serious risk that the defendant will not appear.
- (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

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### PART II - WRITTEN STATEMENT OF REASONS FOR DETENTION

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Applying the factors set forth in 18 U.S.C. §3142(g), I find that the evidence presented/proffered at the DETENTION HEARING, as supplemented by information contained in the aforementioned Pretrial Service Report establishes by clear and convincing evidence that no condition or combination of conditions set forth in 18 U.S.C. §3142(c) will reasonably assure the future appearance of this defendant and the safety of the community were he to be released from custody. The defendant has strong ties to the Middle District of Georgia; however, he has an arrest record going back to 2004, including arrests for ESCAPE in 2004 and 2006 in Calhoun County, Georgia. The offenses charged against him herein are very serious ones for which long-term incarceration can be expected in the event of a conviction or pleas of guilty. His estimated guideline range is 77 months to 96 months in prison to be followed by seven years imprisonment if convicted of the firearms charges set forth in the indictment. The weight of evidence appears to be strong; he has been implicated in the Post Office robbery by a statement from co-defendant Anthony T. Williams who further advised that defendant Hayes possessed a firearm during the robbery.

For the foregoing reasons, the undersigned finds that the government has established that defendant Hayes poses both a serious risk of flight and a danger to the community were he to be released from custody, mandating pretrial detention. IT IS SO ORDERED AND DIRECTED.

**PART III - DIRECTIONS REGARDING DETENTION**

The defendant is hereby committed to the custody of the Attorney General of the United States or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

SO ORDERED, this 7<sup>th</sup> day of DECEMBER, 2009.



CLAUDE W. HICKS, JR.  
UNITED STATES MAGISTRATE JUDGE

